

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) ANNA FLAHERTY,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>CIV-21-280-R</u>
)	
(1) TARGET STORES,)	<i>State Court Case No. CJ-2021-85</i>
)	<i>District Court of Comanche County</i>
Defendant.)	
)	JURY TRIAL DEMANDED

NOTICE OF REMOVAL

Defendant, Target Corporation, incorrectly named as Target Stores (“Target”), hereby files this Notice of Removal and asks the Court to exercise diversity jurisdiction over this action. In support thereof, Target alleges and states as follows:

1. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Target removes the above-captioned action from the District Court of Comanche County to the United States District Court for the Western District of Oklahoma. The following facts warrant the exercise of removal on the basis of diversity jurisdiction.

2. This notice is timely filed pursuant to 28 U.S.C. § 1446 in that it is being filed within thirty (30) days of service of Plaintiff’s Original Petition (“Petition”) on Target.

THE STATE COURT ACTION

3. Plaintiff, Anna Flaherty (“Plaintiff”) filed this action on March 9, 2021, in the District Court of Comanche County State of Oklahoma. (Ex. 1, Petition.) Plaintiff served a copy of the Petition and Summons by certified mail, received by Target’s agent

for service of process, on March 12, 2021.¹ (Ex. 2, Summons; Ex. 3, Return of Service.)

4. Plaintiff's Petition asserts a claim for alleged negligence/premises liability. The Petition, Summons, and Certificate of Service are the only documents that have been filed and/or served to date in the District Court of Comanche County, State of Oklahoma. Pursuant to LCvR 81.2(a), a copy of the Petition, Summons, and Certificate of Service are attached as Exhibits 1-3 and a copy of the state court docket sheet is attached as Exhibit 4.

5. The acts complained of allegedly occurred in Comanche County, State of Oklahoma. However, the parties to this action are completely diverse and the amount in controversy exceeds the jurisdictional requirement. Thus, this Court has diversity jurisdiction over this action.

THIS COURT HAS DIVERSITY JURISDICTION

6. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332. An action may be removed to federal court under Section 1332 where there is complete diversity of citizenship between the parties, and where the requisite amount in controversy exists. *See* 28 U.S.C. § 1332(a); *see also State Farm Fire & Cas. Co. v. Tashire*, 386 U.S. 523, 530-31 (1967).

The Parties Are Completely Diverse

7. In her Petition, Plaintiff named Target as a defendant. Target is a Minnesota corporation with its principal place of business in Minneapolis, Minnesota. For purposes

¹ By removing this action and citing the allegations of the Petition, Target in no way adopts or admits the truth of any of Plaintiff's allegations.

of diversity jurisdiction, a corporation such as Target is considered a citizen of both the state in which it has been incorporated and the state in which it has its principal place of business. 28 U.S.C. § 1332(c)(1). Target was incorporated under the laws of Minnesota and has its principal place of business in Minneapolis, Minnesota. Therefore, Target is a citizen of the State of Minnesota for the purposes of determining diversity.

8. Upon information and belief, Plaintiff resides in Comanche County, Oklahoma. Therefore, Plaintiff is a citizen of the State of Oklahoma for the purposes of determining diversity.

9. Accordingly, Target is completely diverse from Plaintiff. Thus, complete diversity of citizenship exists as between the parties. *See* 28 U.S.C. § 1332(a)(1).

The Amount in Controversy Requirement Is Met

10. Pursuant to *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014), Target need only assert a “plausible allegation” that the amount-in-controversy requirement of \$75,000 is satisfied. “In actions seeking declaratory or injunctive relief, it is well established that the amount in controversy is measured by the value of the object of the litigation.” *Hunt v. Washington State Apple Adver. Comm’n*, 432 U.S. 333, 347 (1977) (citations omitted) (jurisdictional amount determined from the value of the right plaintiff sought to enforce); *City of Moore v. Atchison, Topeka & Santa Fe Ry. Co.*, 699 F.2d 507, 509 (10th Cir. 1983) (citations omitted) (“In a declaratory judgment action, the amount in controversy is measured by the value of the object of the litigation.”).

11. In her Petition, Plaintiff prays for judgment in excess of Seventy-Five Thousand Dollars (\$75,000) (Ex. 1, Petition, at p. 2.) Therefore, it is undisputed that the amount in controversy satisfies the requirements for diversity jurisdiction.

12. Accordingly, the value at issue exceeds the jurisdictional threshold, the parties are completely diverse, and this Court can properly exercise diversity jurisdiction over this controversy.

JURY DEMAND

13. Target respectfully demands a trial by jury on all claims, issues, and matters properly triable by jury.

CONCLUSION

14. Based upon these facts, Target removes the above-captioned action to the United States District Court for the Western District of Oklahoma.

15. Pursuant to Fed. R. Civ. P. 81(c)(2)(C), Target reserves an additional seven days in which to file an answer or other responsive pleading.

Respectfully submitted,

PHILLIPS MURRAH P.C.

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CERTIFICATE OF SERVICE

This is to certify that on the 31st day of March 2021, a true and correct copy of the above and foregoing was e-mailed and mailed by first class mail, postage prepaid, to the following:

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/s/ G. Calvin Sharpe